

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:

DAVID L. RUANO

Debtor(s)

Chapter 13
Case No. 17-36627

Judge JACK B. SCHMETTERER

NOTICE OF MOTION

PLEASE TAKE NOTICE that on January 23, 2019, at the hour of 10:00 A.M., I shall appear before the Honorable Judge JACK B. SCHMETTERER, Room 682, of the McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois, and then and there move the Court pursuant to the attached Motion, at which time and place you may appear if you see fit.

/s/ Timothy R. Yuell

By: Timothy R. Yuell, Esq.

Served upon the following parties electronically:

DAVID M. SIEGEL & ASSOCIATES, 790 CHADDICK DRIVE, WHEELING, IL 60090 - Counsel for Debtor(s)

TOM VAUGHN, 55 E. MONROE ST., STE 3850, CHICAGO, IL 60603 - Trustee

PATRICK S. LAYNG, OFFICE OF THE U.S. TRUSTEE, REGION 11, 219 S. DEARBORN ST., ROOM 873, CHICAGO, IL 60604-U.S. Trustee

and served upon the following parties by mail:

DAVID L. RUANO, 447 W. ROOT ST., CHICAGO, IL 60609 - Debtor(s)

KAREN RUANO, 447 W. ROOT ST., CHICAGO, IL 60609 Co - Debtor

Certification of Service

I, the undersigned, an attorney, hereby certified that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustees and Debtor(s)' counsel via electronic through ECF on January 11, 2019, and as to the Debtor(s) by causing same to be mailed in a properly addressed envelope, postage prepaid, in the U.S. Mail Chute at 175 North Franklin, Chicago, Illinois, before the hour of 5:00 p.m., on January 11, 2019.

By: /s/ Timothy R. Yuell

LAW OFFICES OF IRA T. NEVEL, LLC

Ira T. Nevel

Timothy R. Yuell

Greg Elsnic

Richard Drezek

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MO

18-04419

THIS FIRM IS A DEBT COLLECTOR

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MOTION FOR RELIEF FROM AUTOMATIC STAY AND CO-DEBTOR STAY

NOW COMES Select Portfolio Servicing, Inc, a secured creditor herein, by and through its counsel, LAW OFFICES OF IRA T. NEVEL, LLC and moves this Honorable Court for an Order granting relief from the Automatic Stay and Co-Debtor Stay in effect as to this creditor, and in support thereof, states as follows:

1. Jurisdiction is proper and venue is fixed in this Court with respect to these parties.
2. The Debtors herein filed a Petition under Chapter 13 of Title 11, United States Bankruptcy Code on December 11, 2017.
3. Said Creditor is a mortgagee lien holder on the real property commonly known as 447W. ROOT ST., CHICAGO, IL 60609.
4. The debtor has executed and delivered or is otherwise obligated with respect to that certain promissory note (the "Note"). A copy of the Note is attached hereto as Exhibit A. Movant is an entity entitled to enforce the Note.
5. Pursuant to that certain Mortgage (the "Mortgage"), all obligations (collectively, the "Obligations") of the Debtor under and with respect to the Note and the Mortgage are secured by the Property. A copy of the Mortgage is attached hereto as Exhibit B.
6. All rights and remedies under the Mortgage have been assigned to the Movant pursuant to certain assignments of mortgage, copies of which are attached hereto as Exhibits C-1, C-2.
7. That enforcement of said security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code.
8. The Chapter 13 Plan herein provides for the cure of the default of said mortgage and maintenance of current payments during the pendency of the proceedings.
9. Pursuant to the Plan, the Debtor is to disburse the post-petition monthly mortgage payments directly to this Creditor.

10. That this Creditor is entitled to relief from the Automatic Stay under 11 U.S.C. §362(d) as the Debtor is past due for the November 1, 2018 payment through and including December 1, 2018. Payments are in the sum of \$1157.07 each, with the total post-petition default through and including December 1, 2018 in the amount of \$2314.14 (with \$209.28 being held in suspense) for a total default of \$2104.86. The January 2019 mortgage payment will be due as well by the anticipated hearing date.

11. Further, the Creditor is seeking relief from the Co-Debtor stay, pursuant to 11 U.S.C. §1301, as to Karen Ruano, a co-mortgagor and co-obligor, as prejudice will continue by forcing this Creditor to service this loan under bankruptcy protection restrictions.

12. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested herein, Movant reserves all right to seek an award or allowance of such fees and expenses in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

13. That this Court has the authority to order that Rule 4001(a)(3) is not applicable to the Order entered in granting this Motion, and this Creditor requests this Court to so order.

14. Select Portfolio Servicing, Inc. has the right to foreclose by virtue of being owner and holder of note.

WHEREFORE, this Creditor, Select Portfolio Servicing, Inc, prays that this Court enter an Order, pursuant to 11 U.S.C. §362(d) and §1301, granting relief from the Automatic Stay and for such other additional relief as this Court may deem fit.

/s/ Timothy R. Yueill

By: Timothy R. Yueill, Esq.

Counsel for Select Portfolio Servicing, Inc

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